

REMARKS

Claims 9-28 were submitted in this application. All of these claims have been rejected under 35 U.S.C. 102(b) as anticipated by Fleming US patent 6,249,805; and 5 claims 21-24 have been rejected under 35 U.S.C. 103(a) as obvious over Fleming in view of Nolan US patent publication 2002/0091776.

Applicant respectfully traverses these rejections.

The 102(b) Rejection

10 Fleming teaches a computer system and method for filtering unauthorized electronic mail messages that are sent by senders to a user. The system includes a list of the identifications of the senders who are authorized to send an electronic mail message to the user. When an electronic mail message is received, the system determines whether the sender of the electronic mail message is authorized by determining whether the 15 identification of the sender in the electronic mail message is in the list of the identifications of the senders who are authorized. When the sender of the electronic mail message is determined to be authorized, the system stores the electronic mail message in an Inbox folder. When the sender of the electronic mail message is determined to be not authorized, the system stores the electronic mail message in a Junk Mail folder. In this 20 way, the electronic mail messages are automatically stored in the appropriate folder based on whether the sender is authorized so that the user can view the Inbox folder containing the electronic mail messages sent by authorized senders separately from the Junk Mail folder containing the electronic mail messages sent by unauthorized senders.

25 The Examiner refers only to the Abstract of Fleming for support in finding all the limitations of Applicant's claim 9. Applicant can find no support in Fleming, whether in the Abstract or in the specification, that teaches or suggests the limitation of "performing an analysis to see if there is serial, incremental user identification occurring so that conclusions can be drawn concerning automatic attempts at breaking into the e-mail system."

30 For reference purposes, it is instructive to note that claims of substantially the same scope as those in this US application were granted in corresponding EP1540904 B1,

where Fleming was cited as the closest prior art. A copy of the granted EP claims is attached.

Of course, it need not be stated that the fact of grant of equivalent claims by the EPO is not precedent for the USPTO, but Applicant has found that the EPO Examiners
5 are also very careful and highly skilled and they recognized that the instant claims patentably define over the very same prior art, at least under EPO standards.

The 103(a) Rejection

Nolan was combined with Fleming in rejecting subclaims 21-24, all dependent
10 from claim 9. Nolan was cited for its disclosure of virus checks on e-mail. However, Nolan fails to teach or suggest the analysis step missing from Fleming, as defined in claim 9.

Therefore, since claim 10-28 all depend from claim 9, Applicant submits that they are all patentable for at least the same reasons as is claim 9.

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Additional Prior Art

The three references cited by the Examiner but not applied in rejecting any claims, Azvine et al., Pace et al., and Cobb, have been reviewed. They all fail to supply the limitation missing from Fleming so they need not be further discussed here.

CONCLUSION

In view of the above discussion, it is submitted that claims 9-28 define patentable invention over the prior art of record. Reconsideration is requested. Should any issues remain unresolved, Examiner Nooristany is invited to telephone the undersigned attorney.

Respectfully submitted,

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